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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/780,323
Filing Date: February 17, 2004
Appellant(s): SZYMANSKI, DAVID

Scott A. McCollister
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed February 10, 2011 appealing from the Office action mailed September 10, 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-3, 5-27, 29 and 30 are pending.

Claims 1-3, 5-10, 12-16, 18-20, 23 and 24 are on appeal.

Claims 4 and 28 have been cancelled.

Claims 11, 17, 21, 22, 25-27, 29 and 30 are withdrawn from consideration.

(4) Status of Amendments After Final

An after-final amendment was filed on December 10, 2010 and was NOT entered (see the Advisory action, mailed December 16, 2010).

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office

action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner:

- a. the rejections under 35 USC 112, 2nd paragraph directed to the recitation "at each end" in claims 1 (line 4), 15 (line 4), 18 (line 3), and 19 (line 4); and
- b. the prior art rejections based on Wright as the primary/base reference.

NEW GROUND(S) OF REJECTION

Because of the withdrawal of the above-described prior art rejections based on Wright, new grounds of rejection have been provided for claim 12. Claim 12, the merits of which were not specifically argued by appellant with respect to the prior art rejection based on Wright, is now rejected over the Raetz based on substantially the same principle established for the withdrawn prior art rejection to Wright. This rejection has been incorporated into the prior art rejections below.

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

In the order in which the references are applied:

3,547,167	Raetz	12-1970
3,800,633	Funakubo	04-1974
4,774,278	Wright	05-1988
2,725,083	Ackley	11-1955
2,873,775	Abbott	02-1959
3,144,059	Oehrli	08-1964
3,308,859	Ehlen	03-1967
4,901,613	Carlton	02-1990
3,023,490	Dawson	03-1962
4,750,396	Gaddis et al.	06-1988

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Withdrawn Rejections

The rationale for the withdrawn rejections set forth in section (6) above is as follows:

Regarding (a), based on appellant's arguments provided in the first paragraph on page 9 of the Brief directed to the interpretation of the recitation "at each end," the

Examiner has found appellant's arguments to be persuasive and accepts the interpretation for the recitation "at each end."

Regarding (b), given the interpretation of the recitation "at each end" as argued by appellant wherein the subject recitation refers to each end of the base member, the Examiner's position is that the structure disclosed by Wright does not meet such a limitation.

Rejections Under 35 USC 112, 2nd Paragraph

Claims 1, 15, 16, 18-20, 23 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 11-12, the recitation "relative to a direction of intended chain travel" renders the claim vague and indefinite since the structure of the link is being positively defined in terms of the chain and an intended use thereof which is not set forth as part of the claimed invention; similarly, in line 13, the recitation "relative to a direction opposite of intended chain travel" renders the claim vague and indefinite since the structure of the link is being positively defined in terms of the chain and an intended use thereof which is not set forth as part of the claimed invention.

In claim 15, line 10, the recitation "relative to a direction opposite of intended chain travel" renders the claim vague and indefinite since the structure of the link is being positively defined in terms of the chain and an intended use thereof which is not set forth as part of the claimed invention.

In claim 16, line 4, the recitation "relative to a direction of travel of said cutting member" renders the claim vague and indefinite since the structure of the link is being positively defined in terms of the chain and an intended use thereof which is not set forth as part of the claimed invention; also in line 4, the recitation "a chain" is vague as to whether it refers to that previously set forth (e.g., in claim 15) or to another such chain.

In claim 18, lines 5-6, the recitation "relative to a direction of intended travel of the base member when fastened on the chain" renders the claim vague and indefinite since the structure of the link is being positively defined in terms of the chain and an intended use thereof which is not set forth as part of the claimed invention; similarly, in lines 6-7, the recitation "relative to a direction opposite of intended travel of the base member" renders the claim vague and indefinite since the structure of the link is being positively defined in terms of the chain and an intended use thereof which is not set forth as part of the claimed invention; in line 9, the recitation "an associated cutting member" is vague as to whether it refers to that previously set forth or to another such cutting member; in lines 10-11, the recitation "comprising no more than 0.5° to the mating taper of said associated cutting member" is vague and indefinite since the base member is being positively defined in terms of the cutting member which is not part of the claimed invention (i.e., a base member).

In claim 19, lines 10-11, the recitation "relative to a direction of intended chain travel" renders the claim vague and indefinite since the structure of the link is being positively defined in terms of the chain and an intended use thereof which is not set

forth as part of the claimed invention; similarly, in line 12, the recitation "relative to a direction opposite of intended chain travel" renders the claim vague and indefinite since the structure of the link is being positively defined in terms of the chain and an intended use thereof which is not set forth as part of the claimed invention.

Rejections Under 35 USC 103

Claims 1-3, 6-9, 12-16, 18-20, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raetz, pn 3,547,167 in view of Funakubo, pn 3,800,633 or in the alternative over Raetz, pn 3,547,167 in view of Funakubo, pn 3,800,633 and Wright, pn 4,774,278.

Regarding claims 1-3, 6-9 and 12, Raetz discloses a **link** (e.g., 3) for a saw chain with almost every structural limitation of the claimed invention including:

a base member (e.g., 5 including 6, 7), having a lead end and a rear end, adapted to be pivotally connected to an associated link at each end forming said saw chain (e.g., member 5 is "adapted" in that it has pivot openings, through which components 4 extend, and is fully capable of being pivotally connected to other structure at each end of the base member), said base member comprising a seat surface (e.g., 7; see col. 3, lines 36-37 and col. 2, lines 23-25) having a first taper and a lower surface having a second taper; and

a cutting member (e.g., 9) that comprises a cutting edge and releasably engages said base member, said cutting member including an upper surface having a third taper and an under surface having a fourth taper, wherein said first taper and said third taper

extend at an angle ranging from about 0.5 degrees to about 45 degrees relative to a direction of intended chain travel and said second taper and said fourth taper extend at an angle of about 0.5 degrees to about 45 degrees relative to a direction opposite of intended chain travel (e.g., the link including the cutting member is fully capable of being oriented at substantially any angle based on the type of operation desired by the user and based on any type or form of supporting structure provided therefor; also, the taper of feature 7 of Raetz is considered to meet the "about" language set forth for the angle range; or see "in the alternative" at the end of this rejection), wherein each pair of tapers is at a close tolerance effective to cause self-locking engagement of said first taper of said seat surface and said third taper of said cutting member surface and of said second taper of said lower surface and said fourth taper of said cutting member surface;

[claim 2] wherein said close tolerance comprises no more than about 1 degree (as best understood);

[claim 3] wherein said close tolerance comprises no more than 0.5 degrees (as best understood).

Regarding claims 13 and 14, Raetz discloses every structural limitation of the claimed invention including:

a **saw chain** comprising a plurality of the quick change cutting links of claim 1;

[claim 14] wherein said saw chain is adapted for use on a saw comprising a chain saw, a timber harvester, a buck saw and a saw for cutting wood pallets.

Regarding claim 15, Raetz discloses a **link** (e.g., 3) for a saw chain with almost every structural limitation of the claimed invention including:

a base member (e.g., 5 including 6, 7), having a lead end and a rear end, adapted to be pivotally connected to a connecting link at each end forming said saw chain (e.g., member 5 is "adapted" in that it has pivot openings, through which components 4 extend, and is fully capable of being pivotally connected to other structure at each end of the base member), said base member comprising a seat surface (e.g., 7; see also col. 3, lines 36-37 and col. 2, lines 23-25) having a first taper and a lower surface having a second taper; and

a cutting member (e.g., 9) that comprises a cutting edge and releasably engages said seat surface of said base member, said cutting member including an upper surface with a third taper and an under surface with a fourth taper, said second taper and fourth taper extending at an angle of about 0.5 degrees to about 45 degrees relative to a direction opposite of intended chain travel.

[claim 16] wherein the first taper and third taper extend at an angle ranging from about 0.5° to about 45° relative to a direction of travel of said cutting member when fastened on a chain (e.g., the cutting member is fully capable of being oriented at substantially any angle based on the type of operation desired by the user and based on any type or form of supporting structure provided therefor; also, the taper of feature 7 of Raetz is considered to meet the "about" language set forth for the angle range; or see "in the alternative" at the end of this rejection), said taper having a close tolerance comprising no more than 0.5°.

Regarding claim 18, Raetz discloses a **base member** (e.g., 5 including 6, 7) for a saw chain with almost every structural limitation of the claimed invention including

being adapted to be pivotally connected to a connecting link at each end forming said saw chain (e.g., member 5 is "adapted" in that it has pivot openings, through which components 4 extend, and is fully capable of being pivotally connected to other structure at each end of the base member), the base member comprising:

a seat surface (e.g., 7; see also col. 3, lines 36-37 and col. 2, lines 23-25) having an upper taper extending at an angle ranging from about 0.5° to about 45° relative to a direction of intended travel of the base member when fastened on the chain and a lower taper extending at an angle of about 0.5 degrees to about 45 degrees relative to a direction opposite of intended travel of the base member when fastened on the chain (e.g., the base member is fully capable of being positioned in such an orientation, particularly based on what structure it is attached/mounted; also, as described in col. 3, lines 1-3, the longitudinal cross section of the cutter passage 14 corresponds to the longitudinal cross section of the stud 7, which may be tapered as described in col. 3, lines 36-37; the taper of feature 14 of Raetz is considered to meet the "about" language set forth for the angle range; or see "in the alternative" at the end of this rejection), said upper taper being adapted to mate with a top taper on an associated cutting member and said lower taper being adapted to mate with a bottom taper on an associated cutting member, each taper having a close tolerance comprising no more than 0.5° to the mating taper of said associated cutting member (e.g., as best understood, the base member is fully capable of having such a taper particularly given a suitable cutting member, wherein the cutting member is not part of the claimed base member);

Regarding claims 19, 20, 23 and 24, Raetz discloses a **link** (e.g., 3) for a saw chain with almost every structural limitation of the claimed invention including:

a base member (e.g., 5 including 6 and 7), having a lead end and a rear end, adapted to be pivotally connected to a connecting link at each end forming said saw chain (e.g., member 5 is "adapted" in that it has pivot openings, through which components 4 extend, and is fully capable of being pivotally connected to other structure at each end of the base member), said base member comprising a seat surface (e.g., 7; see also col. 3, lines 36-37 and col. 2, lines 23-25) having a first taper, a lower surface having a second taper, and a stop surface (e.g., one of the various surfaces as viewed in Fig. 1) located upstream of said seat surface relative to the direction of travel of the chain; and

a cutting member (e.g., 9) that comprises a cutting edge and releasably engages said seat surface of said base member, said cutting member including an upper surface having a third taper and an under surface having a fourth taper, wherein said first taper and said third taper extend at an angle ranging from about 0.5° to about 45° relative to a direction of intended chain travel, and said second taper and said fourth taper extend at an angle of about 0.5 degrees to about 45 degrees relative to a direction opposite of intended chain travel (e.g., the link including the cutting member is fully capable of being oriented at substantially any angle based on the type of operation desired by the user and based on any type or form of supporting structure provided therefor; also, the taper of feature 7 of Raetz is considered to meet the "about" language set forth for the angle range; or see "in the alternative" at the end of this rejection) wherein each pair of tapers

is at a close tolerance effective to cause locking engagement of said first taper of said seat surface and said second taper of said cutting member surface;

[claim 20] wherein said close tolerance comprises no more than 0.5 degrees (as best understood);

[claim 23] wherein said first taper and said second taper extend upwardly or downwardly from a location near said cutting edge in a direction opposite to said direction of chain travel;

[claim 24] wherein said angle is about 10 degrees or less.

Raetz lacks the specific material designations for each of the base member and the cutter member, as follows:

[claim 1] the link of a saw chain wherein said surface has the second taper constructed from sintered and compacted particles of abrasion resistant material;

[claim 6] wherein said base member comprises sintered and compacted particles of abrasion resistant material;

[claim 7] wherein said abrasion resistant material comprises at least one of metal and ceramic;

[claim 8] wherein said abrasion resistant material comprises a carbide containing compound;

[claim 9] wherein said carbide containing compound comprises a compound selected from the group consisting of tungsten carbide, silicon carbide, tantalum carbide and aluminum carbide;

[claim 15] wherein said cutting member consists essentially of sintered and compacted particles of abrasion resistant material;

[claim 16] wherein said cutting member consists essentially of sintered and compacted particles of abrasion resistant material;

[claim 18] wherein said base member consists essentially of sintered and compacted particles of abrasion resistant material;

[claim 19] said cutting member comprises sintered and compacted particles of abrasion resistant material.

However, it is respectfully submitted that the use of such material on cutting teeth is old and well known in the art. For example, Funakubo discloses one example of a disclosure that discusses many of the claimed materials (e.g., see col. 1, the paragraph beginning at line 6) including the materials set forth in the subject claims, and teaches that these materials have been used for their known benefits including improved durability and strength characteristics. Therefore, it would have been obvious to one having ordinary skill in the art to use the subject materials to make the cutters of Wright or Raetz for the well known benefits including those described above.

In the alternative, regarding claims 1, 15, 18 and 19, and the corresponding dependent claims, if it is argued that there is no specific disclosure of the claimed taper angle of the stud 7 and the corresponding passage 14 of cutting member 9, the Examiner takes Official notice that to provide taper angles within the claimed range for fitting cutting teeth to their support structure is old and well known in the art and provides various well known benefits including a self-locking as well as a self-releasing

characteristic as taught by Wright (e.g., see col 8, lines 47-61). Therefore, it would have been obvious to one having ordinary skill in the art to provide tapered surface in the claimed range to gain the well known benefits including those described above.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Raetz, pn 3,547,167 in view of Funakubo, pn 3,800,633 or in the alternative over Raetz, pn 3,547,167 in view of Funakubo, pn 3,800,633 and Wright, pn 4,774,278 as the above combinations have been applied to claim 1 above, and further in view of any one of Ackley, pn 2,725,083 or Abbott, pn 2,873,775 or Oehrli, pn 3,144,059 or Ehlen, pn 3,308,859 or Carlton, pn 4,901,613.

The combination lacks:

[claim 5] wherein said base member comprises stamped metal.

However, the Examiner maintains the taking of Official notice that such materials are old and well known in the art and provide various well known benefits including superior strength and durability. Ackley (col. 2, lines 51-53), Abbott (col. 2, lines 9-11), Oehrli (col. 8, lines 43-44), Ehlen (col. 2, lines 41-43) and Carlton (col. 3, lines 60-61) each disclose examples of links having components made from stamped metal. Therefore, it would have been obvious to one having ordinary skill in the art to use the subject materials to make the cutters of Raetz for the well known benefits including those described above.

It is noted that the common knowledge or well-known in the art statement of the previous office action has been taken to be **admitted prior art** because

applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. See MPEP § 2144.03.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Raetz, pn 3,547,167 in view of Funakubo, pn 3,800,633 or in the alternative over Raetz, pn 3,547,167 in view of Funakubo, pn 3,800,633 and Wright, pn 4,774,278 as the above combinations have been applied to claim 1 above, and further in view of any one of Dawson, pn 3,023,490 or Gaddis et al., pn 4,750,396.

The combination lacks:

[claim 10] wherein said abrasion resistant material comprises a tool steel alloy.

However, the Examiner maintains the taking of Official notice that such materials are old and well known in the art and provide various well known benefits including superior strength and durability. Dawson (e.g., see the claims, particularly claims 4 and 21) and Gaddis (see the abstract) each disclose examples of cutting members comprising tool alloy steel. Therefore, it would have been obvious to one having ordinary skill in the art to use the subject materials to make the cutters of Raetz for the well known benefits including those described above.

It is noted that the common knowledge or well-known in the art statement of the previous office action has been taken to be **admitted prior art** because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. See MPEP § 2144.03.

New Grounds of Rejection

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Raetz, pn 3,547,167 in view of Funakubo, pn 3,800,633 or in the alternative over Raetz, pn 3,547,167 in view of Funakubo, pn 3,800,633 and Wright, pn 4,774,278 as the above combinations have been applied to claim 1 above, and further in view Hawk Precision Components Copper Infiltration process specification sheet (copyright 2002).

The combination teaches the saw blade having removable cutting teeth including sintered cutting teeth (see Funakubo) but lacks:

[claim 12] wherein at least one of said cutting member and said base member comprises a water-resistant material applied by a process selected from the group consisting of steam treatment, resin infiltration, copper infiltration and loctite infiltration.

However, to provide a base member and/or cutting member that is made of a material comprising a water-resistant material applied as claimed is old and well known in the art and provides various well known benefits including increased durability. As one example, Funakubo as applied above teaches making cutting teeth from sintered material. Further, Hawk Precision Components discloses the use of copper infiltration with sintered tools because applying copper infiltration to tool pieces makes them suitable for use with fluids. Therefore, it would have been obvious to one having ordinary skill in the art to provide a base member and/or a cutting member that

comprises a water-resistant material applied by one of the claimed processes to gain the well known benefits including those described above.

(10) Response to Argument

Response to Argument A

Regarding the first paragraph on page 9 of the Brief, appellant's arguments are moot because the subject rejection under 35 USC 112 has been withdrawn.

Regarding the second paragraph on page 9 of the Brief, appellant argues the following:

*Appellant submits, however, that the present claims are directed to "[a] quick change cutting link for a **saw chain for cutting wood**" (emphasis added) that includes "a base member, having a lead end and a rear end, pivotally connected to an associated connecting link at each end **forming said saw chain.**" (emphasis added). Therefore, the saw chain is clearly set forth as part of the claimed invention and it is entirely proper to define the link in terms of the chain."*

The Examiner respectfully disagrees with appellant's position for at least the following reasons. First, the second quoted recitation as it appears in the claims is

*"a base member, having a lead end and a rear end, **adapted to be** pivotally connected to an associated connecting link at each end forming said saw chain." (emphasis added).*

That is, there is no positive recitation of the saw chain in the claims. Second, the invention is clearly directed to a link for a saw chain, more specifically, a quick change

cutting link for a saw chain, and thus it is clear that the saw chain must be considered to be an intended use for the link and is not part of the claimed invention.

Appellant further argues the following:

Appellant asserts that it is common knowledge that a saw chain travels in one direction around a guide bar, and is configured such that the chain must travel in this direction in order to properly cut wood. Therefore, the recitation of a lead end and rear end orient the cutting link members and the chain relative to intended chain travel. Clearly, the leading end is the end of the base member that leads the chain around the guide bar. The Examiner argues that the recitation of the saw chain provides no clear implication of structure; however, Appellant submits that connecting the base member to the connecting link and forming a saw chain unquestionably adds structure to the claim and to the base member in particular. That the Examiner holds this concept to be vague is baseless.

Again, the Examiner respectfully disagrees with appellant's position, particularly appellant's conclusion that:

Appellant submits that connecting the base member to the connecting link and forming a saw chain unquestionably adds structure to the claim and to the base member in particular

since the base member has not been positively connected to the link due to the "adapted to be pivotally connected" language that remains in the claims and since the use of the link in a saw chain is clearly a recitation of intended use of the claimed link in any sort of saw chain of unspecified configuration, and thus to positively define the base member in terms of the saw chain must be considered to be vague and/or at the very least indefinite.

Further, it is respectfully submitted that this rejection could have been easily obviated by simply defining the claimed link in terms of the recited structure of the link.

Therefore, for at least the above reasons, it is respectfully submitted that this rejection must be maintained.

Regarding the paragraph bridging pages 9-10 of the Brief, appellant argues that the two issues, one in claim 16 and one in claim 18, would have been removed if the after-final amendment had been entered, and thus appellant requests that these rejections be held in abeyance pending outcome of the appeal.

The Examiner's position is that these rejections remain of record and are now before the Board.

Regarding the second paragraph on page 10 of the Brief, appellant argues that

Appellant respectfully submits that claim 18 describes the associated cutting member in terms of the claimed base member. For instance, the upper taper of the base member is said to be adapted to mate with a top taper of the associated cutting member, which simply orients the associated cutting member in terms of the base member. Accordingly, the tolerance is strictly a feature of the base member taper and is not being defined in terms of the cutting member, but does help to orient the cutting member in terms of the base member, which is positively defined in the claim. The taper's ability to achieve a close tolerance with the cutting member is a property of the base member and is being defined as such. The reference to the cutting member simply puts this feature into context.

The Examiner respectfully disagrees with appellant's position for at least the following reasons.

First, as described above, the invention is directed to a base member of a cutting link for a saw chain, wherein the base member is adapted to be pivotally connected to

an associated link at each end forming said saw chain. Thus, there is nothing in the claims which positively sets forth the saw chain as part of the claimed invention.

Second, similar to the saw chain, the invention defines the base member as being adapted to mate with corresponding tapers on an associated cutting member. Thus, there is nothing in the claims which positively sets forth the cutting member as part of the claimed invention.

Therefore, the use of the base member in a saw chain is clearly a recitation of intended use of the claimed base member in any sort of saw chain of unspecified configuration and to positively define the base member in terms of the saw chain must be considered to be vague and/or at the very least indefinite. Similarly, the use of the base member with a cutting member is clearly a recitation of intended use of the claimed base member with substantially any sort of cutting member of unspecified configuration and to positively define the base member in terms of the cutting member must be considered to be vague and/or at the very least indefinite.

Further, it is respectfully submitted that this rejection could have been easily obviated by simply defining the claimed link in terms of the recited structure of the link.

Therefore, for at least the above reasons, it is respectfully submitted that the rejection under 35 USC 112, 2nd paragraph must be maintained.

Response to Argument B

Appellant's arguments are moot because the subject rejection under 35 USC 103 based on Wright has been withdrawn.

Response to Argument C

In the paragraph bridging pages 13-14 of the Brief, appellant argues the following:

In contrast, as illustrated above, Raetz (upper right) discloses that edges 18 and 19 are tapered, and the tongue 17 may be conical. However, Raetz fails to teach or slightly suggest that the portion of the sleeve associated with the upper edge of the stub comprises any such taper, nor is a taper distinguishable from the figure. Accordingly, Raetz lacks the upper tapering that is provided by the presently claimed first taper of the seat surface and additionally lacks the requirement that each pair of tapers includes a close tolerance effective to cause self-locking. At most, Raetz provides a single pair of tapers 18 and 19; however this pair of tapers does not even comprise two edges in contact with one another, but rather two edges of the link body on opposite sides of the tongue 17. The precise tapering of each pair disclosed in the present claims allows for the close tolerance and self-locking engagement. Raetz does not teach such features. As such, Applicant maintains that the subject claims patentably distinguish over Raetz.

The Examiner respectfully disagrees with appellant's position. First, it is respectfully submitted that the taper between edges 18 and 19 plays no part in the present prior art rejection, particularly given the withdrawal of the rejections described above in section (6) of this Examiner's answer. Second, the stud 7 of Raetz is clearly disclosed as being tapered. Specifically, in column 3, lines 36-37, the Raetz discloses the following:

Stud 7 may taper toward its free end in a conical manner.

Further, in column 2, lines 23-25, Raetz discloses the following:

The cutting body may be secured on the link body in a similar manner against rotation by providing the stud with a rectangular or square cross section.

Thus, it is respectfully submitted that Raetz clearly discloses a link including a base member and a cutting member with the claimed tapered structure. Further, Raetz clearly teaches that the mating surfaces of the structures will be in contact with one another thus teaching the claimed close tolerances.

Still further, the amount of taper required by the claims is unclear because the amount of taper is not defined in terms of features of the claimed invention but rather is defined in terms of the intended use of the link, or for claim 18, the intended use of the base member. More specifically, the amount of taper is defined in terms of an intended direction of travel for a saw chain of unspecified configuration on which the link, and/or base member, is intended to be used, and it is respectfully submitted that the device of Raetz is fully capable of meeting any of the claimed taper angles based on a selected orientation of the device in an unspecified saw chain.

Still further, if it is somehow determined that the claims adequately set forth the taper angles, the Examiner respectfully submits that such angles, particularly the extremely broad claimed range of 0.5 degrees to 45 degrees, is clearly taught or at least suggested by the prior art of record, including the applied prior art.

Therefore, it is respectfully submitted that the prior art of record, particularly Raetz in the manner described, teaches or suggests all of the structure of the claimed invention and for at least the above reasons, it is respectfully submitted that all of the outstanding rejections must be maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section (9) above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Respectfully submitted,

**/CLARK F DEXTER/
Primary Examiner, Art Unit 3724**

A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:

/DONALD T HAJEC/

Director, Technology Center 3700

Conferees:

/BOYER D ASHLEY/

Supervisory Patent Examiner, Art Unit 3724

/JOSEPH J HAIL/

Supervisory Patent Examiner, Art Unit 3723